

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

In re: Neicy B. Davis : CASE NO: 20-30597
 Debtor : Judge Humphrey
 :
 : (Chapter 13)
 :
 :

MOTION FOR MODIFICATION OF PLAN POST CONFIRMATION AND NOTICE

The Debtor hereby moves the Court for an Approval to modify the Chapter 13 Plan. Support for the motion is set forth in the following memorandum.

MEMORANDUM IN SUPPORT

A plan has been confirmed.

Date petition filed: March 4, 2020 Date of last modification: Not Applicable

Date plan confirmed: September 16, 2020 Date last modification approved: Not Applicable

Monthly Plan Payments: Current: \$ 540.00 Proposed: \$540.00

If the plan changes the monthly payments, amended Schedules I and J are attached.

Percent to Unsecured Creditors: Current: 0% Proposed: 0 %

Length of Plan (months): Current: 60 Proposed: 60

(Above median income case must be a 60 month plan unless plan is repaying 100% to the general unsecured creditors.)

The effective date is the date of the entry of the Approval. For calculation purpose, the Trustee will use the motion filed date.

The Debtor is responsible for any increase in the Payroll Deduction, TFS, or Direct Payment until such payment is adjusted.

Reason for the modification, including any changes in circumstances since last plan:

Debtor hereby modifies her Chapter 13 Plan to provide that she will file an objection to the proof of claim of Rushmore and file a motion to enter the Mortgage Modification Mediation Program as follows:

1. Debtor's initial Chapter 13 plan contemplated that there was a previous loan modification with Rushmore Loan Management Services, however, it was subsequently discovered that no loan modification had been executed. In the course of that investigation, numerous discrepancies were discovered in the mortgage payment history, including unreasonable fees, misapplied payments and/or escrow account advances. Debtor will file an objection to the proof of claim withing 21 days from the date this modification is filed, to address these various discepecies.
2. Rushmore Loan Management Services is the servicer for the first mortgage on Debtors' primary residence located at 39 Vassar Drive, Dayton, Ohio 45406 (last 4 of account number – 1924). Debtor intends to seek Mortgage Modification Mediation (“MMM”) through the Court's MMM Program. Pending the resolution of the MMM request, the Debtor shall pay to the Chapter 13 Trustee monthly adequate protection payments in the amount of \$479.01. The Trustee shall hold these adequate protection payments pending further order of the Court or joint stipulation of the parties for disbursement in accordance with Section

No Schedule I or J is attached hereto as this modification does not change her monthly plan payment.

All other provisions of the Debtors' Chapter 13 plan shall remain in full force and effect.

Debtor's attorney will make separate application for additional attorney fees as provided by LBR 2016-1.

/s/ Andrew J. Zeigler

Andrew J. Zeigler, #0081417
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(20-30597)

NOTICE OF MOTION FOR MODIFICATION OF PLAN POST CONFIRMATION

The Debtor has filed a Motion for Modification of Plan Post Confirmation.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Motion, then on or before **twenty –one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk, U.S. Bankruptcy Court, Southern District of Ohio, 120 W. Third St., Dayton, Ohio 45402 OR your attorney must file a response using the court's ECF System.

The court must receive your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF system or by 2) regular U.S. Mail to:

Neicy B. Davis, 39 Vassar Drive, Dayton, Ohio 45406
Andrew J. Zeigler, Case Attorney for Debtor, 1340 Woodman Drive, Dayton, Ohio 45432
John G. Jansing, Chapter 13 Trustee, 131 N. Ludlow St., Dayton, Ohio 45402
Office of the U.S. Trustee, 170 North High St., Suite 200, Columbus, Oh 43215

If you or your attorney do not takes these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

/s/ Andrew J. Zeigler

Andrew J. Zeigler, #0081417

Case Attorney for Debtor

1340 Woodman Drive

Dayton, Ohio 45432

(937) 252-2030

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CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2022 a copy of the attached was served on the following ECF participants electronically through the court's ECF System at the email address registered with the court.

John G. Jansing, Chapter 13 Trustee
United States Trustee
US Bank National Association c/o Christopher P. Kennedy

And on the following by ordinary U.S. Mail, on March 7, 2022_:

Neicy B. Davis, 39 Vassar Drive, Dayton, Ohio 45406

U. S. Bank National Association c/o Rushmore Loan Management Services, LLC, 15480 Laguna Canyon Road, Suite 100, Irvine, CA 92618

And on the following by Certified U.S. Mail, postage prepaid, addressed to:

Rushmore Loan Management Services, LLC, c/o Corporation Service Company, 50 West Broad Street, Suite 1330, Columbus, Ohio 43215

Andy Cecere, CEO of U.S. Bank, NA, U.S. Bank Corporate Headquarters, 425 Walnut Street, Cincinnati, Ohio 45202

/s/ Andrew J. Zeigler

UNSWORN DECLARATION UNDER PENALTY OF PERJURY

I, Neicy B. Davis, certify under penalty of perjury that I read the foregoing
Modified Chapter 13 Plan and that it is true to the best of my knowledge,
information, and belief.

Executed on: March 7, 2022

/s/ Neicy B. Davis
Neicy B. Davis
Debtor